Supreme Court, U.S.
FILED

No. 06-1247 SEP 19 2007

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In The

Supreme Court of the United States

GORDON LEITCH,

Petitioner,

v.

BILL BRADBURY,

Respondent.

On Petition For Writ Of Certiorari To The Circuit Court Of The State Of Oregon For The County Of Marion

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED FOR REVIEW

The Constitution of the United States (Constitution), Article I, § 10, clause 1, clearly and unambiguously commands that "No State shall * * * emit Bills of Credit; [or] make any Thing but gold and silver Coin a Tender in Payment of Debts; * * * ." Of the eleven candidates for the major party nominations for Governor of Oregon in the May 16, 2006 primary election, only Petitioner Gordon Leitch ("Petitioner" or "Mr. Leitch") paid his $100.00 filing fee to the State of Oregon in gold or silver coin. Oregon law considers each candidate's filing fee to constitute a "debt" owed the State. Respondent Bill Bradbury, the Oregon Secretary of State ("Respondent" or "Secretary Bradbury"), failed to disqualify the other candidates despite their noncompliance with the constitutional direction of Article I, § 10, clause 1:

1. May the State of Oregon make any thing other than gold or silver coin a tender in payment of a debt owed the state?

2. May states amend the Constitution by any means other than the process mandated by Constitution, Article V?

3. May Oregon rely upon a historically and mathematically mistaken opinion issued by the Supreme Court of the United States in order to avoid the command of Constitution, Article I, § 10, clause 1?

IDENTIFICATION OF PARTIES AND CORPORATE DISCLOSURE STATEMENT

The parties to this mandamus proceeding are Gordon Leitch, an individual citizen of the State of Oregon, and Bill Bradbury, an individual citizen of the State of Oregon sued in his capacity as the Oregon Secretary of State. The parties to this case do not include any corporate entity.

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PETITION FOR WRIT OF CERTIORARI

Petitioner Gordon Leitch respectfully prays that a Writ of Certiorari issue to the Circuit Court of the State of Oregon for the County of Marion to review its General Judgment and the Supplemental Money Judgment, denying mandamus relief to Petitioner against Respondent Secretary of State Bill Bradbury, and ordering Mr. Leitch to pay a money judgment for Respondent's costs and attorney fees. The Oregon Court of Appeals' Order of Dismissal held Petitioner's appeal was moot. The Oregon Supreme Court denied review and denied reconsideration.

CITATION TO REPORTS BELOW

The Circuit Court of the State of Oregon for the County of Marion entered its General Judgment of Dismissal of Petitioner's petition for a Writ of Mandamus on March 24, 2006 (App. 3), and it entered its Supplemental Money Judgment awarding attorney fees and costs to Secretary Bradbury on June 9, 2006 (App. 1). These judgments are not officially or unofficially reported but they do appear in the Oregon Judicial Information Network (OJIN) as Marion County No. 06C11178, CC-OJIN 21 and CC-OJIN 36 respectively.[1]

The Oregon Court of Appeals issued its Order of Dismissal (App. 6) on September 20, 2006 (A-OJIN 39). This Order is not officially or unofficially reported. The

[1] "CC-OJIN" refers to the Marion County Circuit Court OJIN. "A-OJIN" refers to the separate OJIN for the Oregon Court of Appeals. "S-OJIN" refers to the separate OJIN for the Oregon Supreme Court.

Oregon Supreme Court entered its Order Denying Review (App. 26) on November 21, 2006 (S-OJIN 4), and its Order Denying Petition For Reconsideration (App. 27) on December 19, 2006 (S-OJIN 6). Neither Supreme Court order is officially or unofficially reported.

JURISDICTION OF THE SUPREME COURT OF THE UNITED STATES

Petitioner filed his Notice of Appeal, his Amended Notice of Appeal, and his Second Amended Notice of Appeal from the General Judgment timely and fully in accordance with Oregon law on April 10 and April 13, 2006 (CC-OJIN 26, 27, 28). ORS 19.240-19.255 inclusive. Petitioner filed his Third Amended Notice of Appeal from the Supplemental Money Judgment timely and fully in accordance with Oregon law on July 10, 2006 (CC-OJIN 38). ORS 19.240-19.255 inclusive. Petitioner filed his Petition For Review of the Oregon Court of Appeals' Order of Dismissal timely and fully in accordance with Oregon law on October 6, 2006 (S-OJIN 1). ORAP 9.05(2)(a). Petitioner filed his Petition For Reconsideration timely and fully in accordance with Oregon law on November 28, 2006 (S-OJIN 5). ORAP 9.25.

Mr. Leitch's Petition For A Writ Of Certiorari is timely because it is filed within ninety days of the Oregon Supreme Court's Order Denying Petition For Reconsideration and entry of the Appellate Judgment. 28 U.S.C. § 2101(c); Rules of the Supreme Court of the United States, Rule 13,

§ 1. This Court has jurisdiction to review the state court's judgments under 28 U.S.C. § 1257(a).

NOTICE OF CONSTITUTIONAL QUESTION: 28 U.S.C. § 2403

Petitioner gives notice that his Petition calls the constitutionality of an Act of Congress into question. Petitioner has served his Petition upon the Solicitor General of the United States of America. Rules of the Supreme Court of the United States, Rule 29, §§ 3 and 4.

CONSTITUTIONAL PROVISIONS INVOLVED

This Petition implicates the following provisions of the Constitution of the United States of America:

Article I, § 8: "The Congress shall have Power * * *;"

Clause 2: "To borrow Money on the credit of the United States; * * * ;"

Clause 5: "To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures; * * * ;"

Clause 18: "To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof."

Article I, § 10:

Clause 1: "No State shall * * * ; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; * * * ."

Article V: "The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate."

Amendment IX: "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

Amendment X: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

STATEMENT OF THE CASE

1. Federal Question Preserved Below

Article I, § 10, clause 1 of the Federal Constitution provides the essential and fundamental focus of this entire case. All legal arguments derive from this position and its relationship to other provisions of the Constitution. No factual dispute exists. No state law or constitutional dispute invades this case. Hence, commencing with Petitioner's Petition For Peremptory Writ of Mandamus and Complaint (CC-OJIN 1) and Petitioner's Amended Petition For Peremptory Writ of Mandamus and Complaint (CC-OJIN 10), all pleadings, arguments, and proceedings have dealt with the coterie of Federal legal issues centered around Article I, § 10, clause 1.

2. Additional Statement Of Facts Necessary For Decision

This case contains no factual disputes. It presents contested seminal legal issues.

Gordon Leitch is an Oregon citizen, taxpayer, voter, and member of the Republican Party. He duly and timely filed his declaration of candidacy for the Republican nomination for Governor of Oregon in the May 16, 2006 Oregon primary election. ORS 249.002-249.078. He paid his mandatory $100.00 filing fee, specified by ORS 249.020(2) and ORS 249.056(1)(b), in gold or silver coins, pursuant to the directive of the Constitution, Article I, § 10, clause 1. None of the other ten major party candidates for Governor paid their fees in gold or silver coins. Under Oregon law, the required filing fee constitutes a debt owed to the State. ORS 249.056. Respondent failed to disqualify and remove all other major party candidates

from the ballot in spite of their fee payments in violation of the Constitutional directive.

Mr. Leitch petitioned the Oregon Circuit Court for a Writ of Mandamus compelling Secretary Bradbury, the chief Oregon election officer, to disqualify the ten candidates who failed to pay their filing fees in accordance with the Constitution, and to remove them from the primary ballot. He argued that the Constitution deprives the State of Oregon of any power to make any thing other than gold and silver coin a tender for the payment of these debts because the State is bound to follow the Constitutional command in all respects, and it cannot amend the Constitution by ignoring it or by establishing a contrary tradition of accepting paper bills or bank checks in place of the coins the Constitution specifies.

The Circuit Court dismissed Mr. Leitch's Petition. Secretary Bradbury moved the Circuit Court to award him his costs and attorney fees as the prevailing party. Petitioner challenged this motion, arguing that the Court lacked jurisdiction to make any thing other than gold or silver coins a tender in payment of a debt and, therefore, any purported judgment that failed to identify the number and kind of coins to be tendered in payment of a judgment lacked constitutional validity (App. 39) (CC-OJIN 29).

Within ten days, Petitioner not only perfected his appeal to the Oregon Court of Appeals (A-OJIN 1) but also filed his Appellant's Brief (A-OJIN 2). He moved the Court of Appeals to expedite his case in order for the Court to decide the issue before the May 16, 2006 primary election took place. The Court of Appeals denied Mr. Leitch's motion. The Oregon Supreme Court declined to review Mr.

Leitch's petition challenging the Court of Appeals' denial of his motion to expedite.

The May 16, 2006 primary election occurred and a candidate other than Mr. Leitch received the Republican Party nomination for Governor despite non-compliance regarding the required fee. Two days later, Secretary Bradbury moved the intermediate appellate court to dismiss Petitioner's appeal as moot by reason of the conclusion of the primary election (A-OJIN 23).

Before the Court of Appeals could act on Secretary Bradbury's motion to dismiss, the Circuit Court entered its Supplemental Money Judgment, awarding Secretary Bradbury $2992.30 in costs and attorney fees as prevailing party (CC-OJIN 36). On July 10, 2006, Mr. Leitch duly and timely appealed from this Supplemental Money Judgment (CC-OJIN 38, 39; A-OJIN 27, 29). No Oregon appellate court has ruled directly on the validity of the Supplemental Money Judgment.

ARGUMENT IN SUPPORT OF ISSUANCE OF WRIT

1. The Meaning Of Article I, § 10, Clause 1

Article I, § 10, clause 1 says what it means and means what it says. The text is simple, plain, and direct: No State has the power to make any thing other than gold and silver coins a tender in payment of a debt.

The document context supports the text. Article I, § 10, clause 1 differs significantly from Article I, § 10, clauses 2 and 3. Clause 2 includes the phrase "***without the Consent of the Congress***," and clause 3 includes the

phrase "***without the Consent of Congress***." Clause 1 contains no such language. Clause 1 is plain, unambiguous and absolute. What Congress cannot consent to, neither Congress nor the General Governmen can compel.

The context in which this fundamental document was written, debated, and adopted also supports the text. Under the Articles of Confederation the several states issued paper money substitutes (actually, emitted bills of credit) without reason or limit, leading to a disastrous inflation with its resultant depressive effects and destruction of credit. The constitutional draftsmen specifically rejected a proposal – by an 82 percent vote – that would have granted the General Government power to emit bills of credit. ***Documents Illustrative Of The Formation Of The Union Of The American States***, House Document No. 398, 69th Congress, 1st Session (Government Printing Office, Washington, D.C. 1927), pp. 475, 556-57 ("***Documents Illustrative***"). Consistent with that action, the Founding Fathers also barred the constituent states from deviating from a gold-and-silver-coin standard.

Further, the Federal Constitution is an instrument of prohibitions, constraining the use of the collective compulsion of government against individual citizens, and Article I, § 10, sets forth a number of express rules constraining the several states from specific actions; one prohibition among many is the bar against the use of any thing except gold and silver coins as a tender in payment of a debt. Interpretative rules apply only to ambiguous words. In this case, change in the guise of interpretation would only muddle things and concoct a new and different rule.

Therefore, Oregon may not accept any thing other than gold and silver coins in payment of a debt due the

State. The statutory filing fee for public office constitutes a debt under Oregon law. Only Mr. Leitch, among all major party candidates for Governor, paid his filing fee in the specified Constitutional coin. Hence, Oregon essentially disregarded the Federal Constitution both when it denied mandamus relief and did not expedite the appeal, and when it failed to specify the form of payment of the Supplemental Money Judgment.[2]

2. The State Court Decision Rests On Historical And Mathematical Error

Secretary Bradbury convinced the state courts that the Constitution authorizes Congress to issue paper money and therefore Oregon may accept bank drafts and paper currency in payment of the filing fees notwithstanding Article I, § 10, clause 1 (*see, e.g.,* CC-OJIN 16). He relied upon the following quotation from ***Juilliard v. Greenman, (The Legal Tender Cases)***, 110 U.S. 421, 448, 4 S. Ct. 122, 28 L. Ed. 204 (1884):

> "* * * Congress is authorized to establish a national currency, either in coin or in paper, and to make that currency lawful money for all purposes, as regards the national government or private individuals. * * *." *Id.*

He did not add ellipses or by any other method signify that he had taken this partial sentence out of context.

[2] To state the obvious, the Supremacy Clause compels Oregon to obey the Constitution of the United States in all particulars. Constitution, Article VI, clause 2.

First, while this Court has related the clause in question in passing, Petitioner can locate no applicable decision of, or discussion by, this Court concerning Article I, § 10, clause 1. Nonetheless, Mr. Leitch's case rests upon that clause, and that clause expressly limits ***States***. Contrast ***Juilliard v. Greenman,*** 110 U.S. at 448, specifically applying to "* * * the national government or private individuals." To reiterate the seminal distinction between Article I, § 10, Clause 1, and Clauses 2 and 3, Clause 1 explicitly ***does not empower Congress*** to change the Constitutional mandate, whereas Clauses 2 and 3 contain the differential language, "***without the Consent of the Congress.***"[3]

Second, the Founding Fathers knew precisely what they were doing. They chose their words with care. They debated first principles, with particular emphasis upon the question whether to grant the Congress power to make paper instead of (or in addition to) coin a legal tender. Their judgment rested on tragic contemporaneous experience with rampant inflation caused by paper currency during the Confederation. On Monday, August 6, 1787, the Committee Of Detail proposed that "The Legislature of the United States shall have the power * * * To borrow money, and emit bills on the credit of the United States * * * ." ***Documents Illustrative,*** p. 475. By a nine to two vote on Thursday, August 16, 1787, the delegates struck the proposed power "* * * and emit bills on the credit of the United States * * * ." *Id.,* pp. 556-57. Remarkably, this Court later considered this overwhelming vote "quite inconclusive," ***Juilliard v. Greenman,*** 110 U.S. at 443,

[3] Clause 3 does not contain the congressional modifier "the."

although delegate and future Fourth President James Madison said his vote "* * * cut off the pretext for a paper currency, and particularly for making the bills a tender, either for public or private debts." *Id.,* 110 U.S. at 443. Subsequently, on Tuesday, August 28, 1787, the Convention moved to insert, following "coin money" in the future Article I, § 10, the phrase "nor emit bills of credit, nor make any thing but gold and silver coin a tender in payment of debts." ***Documents Illustrative,*** pp. 627-28. The delegates voted unanimously to include the phrase "nor make any thing but gold and silver coin a tender in payment of debts." *Id.* They passed the provision "nor emit bills of credit" by more than 80%. *Id.* Delegate Roger Sherman termed this inserted phrase a means of "crushing paper money." *Id.*

Third, the State argument misleads by employing the aforementioned partial quotation from ***Juilliard v. Greenman*** out of context. Consider the more complete opinion statement and its implications:

> "* * *. Under the two powers, taken together, Congress is authorized to establish a national currency, either in coin or in paper, and to make that currency lawful money for all purposes, as regards the national government or private individuals. * * *." ***Juilliard v. Greenman,*** 110 U.S. at 448.

What two powers? The power to coin money and to regulate the value of foreign and domestic coin (Constitution, Article I, § 8, clause 5) and the power "To borrow Money on the credit of the United States" (*Id.,* clause 2) "* * * and to issue circulating notes for the money borrowed * * *," ***Juilliard v. Greenman,*** 110 U.S. at 448, *i.e.,* "emit bills of credit," ***a power expressly denied to the General***

Government by the Constitutional Convention! Documents Illustrative, pp. 556-57. Thus, a power proposed but not granted suddenly becomes a power granted because not explicitly prohibited. The Ninth and Tenth Amendments expressly override this curious legal sleight-of-hand.

Fourth, Petitioner acknowledges that ***Juilliard v. Greenman,*** 110 U.S. 421, and its predecessor ***Knox v. Lee (The Legal Tender Cases),*** 79 U.S. (12 Wall.) 457, 20 L. Ed. 287 (1870), construed three phrases in Constitution, Article I, § 8, to create authority to employ paper currency as legal tender. Neither decision, nor any other case from this Court, address the Article I, § 10, clause 1 issue presented by this Petition.

Furthermore, with all due respect, these legal tender decisions are wrong and rest upon demonstrable historical and mathematical errors. In ***Knox v. Lee,*** 79 U.S. at 554, this Court made an unprecedented offer to reconsider its decisions:

> "Even in cases involving only private rights, if convinced we had made a mistake, we would hear another argument and correct our error. And it is no unprecedented thing in courts of last resort, both in this country and in England, to overrule decisions previously made."

If the Court grants Mr. Leitch's Petition, he will demonstrate that these Legal Tender decisions indeed rest upon historical mistakes and arithmetic miscalculations. Among other errors, this Court repeatedly asserted as convincing historical precedent that Congress had devalued and debased the coinage in 1834. ***Knox v. Lee.,*** 79 U.S. at 548-49, 551-52 (Strong, J., for plurality); 79 U.S. at 565 (Bradley, J.,

concurring); ***Juilliard v. Greenman***, 110 U.S. at 449. In fact, Congress never devalued or debased the dollar between April 2, 1792 and February 12, 1873; during that time, the dollar always contained 371 grains and 4/16ths parts of a grain of pure silver. Paul Bakewell, Jr., ***What Are We Using For Money*** (D. Van Nostrand Company, Inc., Toronto, New York, London, 1952) (Library of Congress Catalogue Card No. 52-11169), pp. 9-17.

This Court seemingly settled the question of Congressional creation of paper currency as legal tender years ago. It also once considered ***Swift v. Tyson***, 41 U.S. (16 Pet.) 1, 10 L. Ed. 865 (1842),[4] and ***Plessey v. Ferguson***, 163 U.S. 537, 16 S. Ct. 1138, 41 L. Ed. 256 (1896)[5] settled law, yet it reconsidered and corrected those rulings upon reflection. In this regard, the context of the nineteenth century legal tender decisions bears repeating. This Court struck down the Civil War legal tender legislation in ***Hepburn v. Griswold***, 75 U.S. (8 Wall.) 603, 19 L. Ed. 513 (1869) by a Court divided five-to-three. Retirement and a change in the composition of the Court led to two political appointments. The following year ***Knox v. Lee***, 79 U.S. 457, overturned ***Hepburn v. Griswold*** by a five-to-four vote (Mr. Justice Strong writing for four Justices, and Mr. Justice Bradley writing a strident concurring opinion in which no other Justice joined). Singularly, the prevailing opinions repeatedly justified this abrupt reversal on the ground that a "divided" court of fewer members decided ***Hepburn v. Griswold***. *E.g.*, ***Knox v. Lee***, 79 U.S. at

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[4] *Overruled*, ***Erie R. Co. v. Tompkins***, 306 U.S. 64, 58 S. Ct. 817, 82 L. Ed. 1188 (1938).

[5] *Overruled*, ***Brown v. Bd. Of Ed.***, 347 U.S. 483, 74 S. Ct. 686, 98 L. Ed. 873 (1954).

553-54 (Strong, J., for the plurality); 569-70 (Bradley, J., concurring). The objective observer notes that the ***Knox v. Lee*** Court was more closely divided than was the ***Hepburn v. Griswold*** Court, and regardless how the missing Justice might have voted in ***Hepburn v. Griswold*** – thus resulting in a six-to-three or five-to-four decision – ***Hepburn*** would still be prevailing and settled case law, with no reason to hear ***Knox***.

3. No One Can Amend The Constitution By Disobedience Or Tradition

Article V of the Constitution establishes the only permissible methods of constitutional amendment. Secretary Bradbury argued below that long acceptance of bank drafts and paper dollars in payment of filing fees constituted an abiding tradition to be followed in spite of the plain language of Article I, § 10, clause 1. If one may amend a constitution by willful disobedience or careless neglect, or by omission or traditional oversight, then the document is little more than an unenforceable contemporary mission statement. By its very nature, founders design constitutions – at least our founders designed our Constitution – as an enduring document, a grand norm against which all other laws must be measured and evaluated. Such a document cannot and should not be discarded at the ephemeral whim of those who wish to ignore or disobey it.

4. This Case Is Not Moot

No appellate court ruled on Petitioner's challenge to the Supplemental Money Judgment. The Oregon Court of Appeals issued its Order of Dismissal (A-OJIN 39)

because the primary election had concluded. Even if this Order were defensible, and it is not, it neither mentions nor controls the appeal from the Supplemental Money Judgment that necessarily rests upon a separate ground (CC-OJIN 38, 39, A-OJIN 27, 29). ORS 20.105. That independent foundation neither relates to, nor depends upon, any facet of an election. It simply either awards damages or invokes a sanction. No statute and no case law evinces a contrary position. Petitioner asserted this defect unsuccessfully to the Oregon Supreme Court in his petitions for review and reconsideration (S-OJIN 1, 5).

Moreover, the State claim that the General Judgment is moot also fails any test of reason. ***Yancy v. Shatzer,*** 337 Or. 345, 97 P3d 1161 (2004) (Under Oregon law, a case is not moot if it presents a justiciable controversy). If all candidates (including the successful ones) are disqualified, the passage of time does not cure their lack of qualification unless the defect rests upon a reparable ground. Failure to pay the required filing fee timely and properly in Constitutional coinage cannot be cured. If the non-complying Republican candidate was suddenly discovered to be an escaped convicted mass murderer from another jurisdiction, and if the non-complying Democratic candidate was revealed to be a citizen of Honduras, does the State really contend that either individual could continue to hold office just because a primary or a general election had come and gone?

CONCLUSION

The Oregon courts have discarded the Constitution of the United States. The Constitution plainly directs that

Oregon cannot make any thing but gold and silver coin a tender for payment of a debt. Only Mr. Leitch complied with that constitutional mandate. Only Mr. Leitch thus qualified as a major party gubernatorial candidate. Therefore, Oregon erred in not removing the non-complying candidates from the ballot, and it further erred in rendering and threatening to enforce a Supplemental Money Judgment that also fails to comply with the constitutional command. Insofar as the case purports to rest upon Congressional power to establish a paper currency as legal tender, it is time to revisit this significant issue in light of the demonstrably incorrect bases for those divided nineteenth century decisions.

Respectfully submitted,

RIDGWAY K. FOLEY, JR., P.C.
GREENE & MARKLEY, P.C.

Counsel of Record for Petitioner

IN THE CIRCUIT COURT OF THE
STATE OF OREGON

FOR THE COUNTY OF MARION

GORDON LEITCH, Relator, v. BILL BRADBURY, Respondent.	Case No. 06C-11178 Honorable Jamese L. Rhoades SUPPLEMENTAL MONEY JUDGMENT (Filed Jun. 7, 2006) (Entered Jun. 9, 2006)

The court previously entered a General Judgment with prejudice in favor of respondent, fully disposing of all claims asserted against defendant in this action. The court also designated defendant the prevailing party and, accordingly, ruled that he is entitled to his reasonable attorney fees under ORS 34.210(2), in addition to his costs and disbursements. Based on the Statement of Attorney Fees and Costs submitted by respondent, it is hereby ADJUDGED that supplemental judgment be entered in favor of respondent and against relator in the amount of $2,992.30, together with simple interest thereon at the statutory rate of nine percent per annum from the date of this judgment until paid.

Information Required by ORS 18.042(2)

MONEY JUDGMENT

Judgment Creditor: Bill Bradbury, Secretary of State
State of Oregon
Room 136 State Capitol
Salem, OR 97301

Attorney for Judgment Creditor:	David E. Leith Assistant Attorney General Oregon Department of Justice 1162 Court Street NE Salem, OR 97301 (503) 947-4700
Judgment Debtor:	Gordon Leitch 885 SW Red Hills Drive Dundee, OR 97115 DOB Unknown Social Security Number Unknown Drivers License Information Unknown Attorney: James E. Leuenberger
Amount of Judgment:	$2,992.30
Amount of Attorney Fees:	$2907.30
Amount of Costs:	$85.00
Postjudgment Accrual Information:	Nine percent (9%) per annum simple interest on judgment amount of $2,992.30 from the date judgment is entered until fully paid.

DATED: this 7th day of June, 2006.

/s/ Jamese Rhoades
HONORABLE JAMESE L. RHOADES
Circuit Court Judge

Submitted by: David E. Leith
Assistant Attorney General
Of Attorneys for Respondent

IN THE CIRCUIT COURT OF THE
STATE OF OREGON

FOR THE COUNTY OF MARION

GORDON LEITCH, Relator, v. BILL BRADBURY, Respondent.	Case No. 06C-11178 Honorable Jamese L. Rhoades GENERAL JUDGMENT (Filed Mar. 21, 2006) (Entered Mar. 24, 2006)

The court having issued its Order dismissing with prejudice the *Amended Petition for Peremptory Writ of Mandamus and Complaint*,

IT IS HEREBY ADJUDGED THAT the *Amended Petition for Peremptory Writ of Mandamus and Complaint* is dismissed with prejudice.

DATED this 21st day of March, 2006.

/s/ Jamese Rhoades
HONORABLE JAMESE L. RHOADES
Circuit Court Judge

Submitted by: David E. Leith
Assistant Attorney General
Of Attorneys for Respondent

[LOGO]

CIRCUIT COURT OF OREGON
THIRD JUDICIAL DISTRICT
MARION COUNTY COURTS
P.O. BOX 12869
SALEM, OREGON 97309-0869

JAMESE RHOADES
CIRCUIT COURT JUDGE
(503) 588-7950

April 27, 2006

(Filed and Entered Apr. 27, 2006)

James Leuenberger
Attorney at Law
PO Box 1684
LAKE OSWEGO OR 97035

David Leith
Assistant Attorney General
1162 COURT ST NE
SALEM OR 97301

Re: Leitch v. Bradbury, Case No. 06C11178

Dear Counsel:

This matter came before the Court on defendant's Statement of Attorney Fees and Costs and relator's objection. Neither party requested oral argument. The matter, being fully submitted, was taken under advisement.

The Court grants defendant's Statement of Attorney Fees and Costs. Mr. Leith may prepare the supplemental judgment.

Very truly yours,

/s/ Jamese Rhoades
Jamese Rhoades
Circuit Court Judge

JLR:nl

IN THE COURT OF APPEALS OF THE
STATE OF OREGON

GORDON LEITCH, Relator-Appellant, v. BILL BRADBURY, Defendant-Respondent.	) Marion County Circuit) Court No. 06C-11178)) CA A131789) **ORDER OF DISMISSAL**)

Appellant appeals from a trial court judgment that dismissed a petition for writ of mandamus. The mandamus petition "sought an order compelling the Secretary of State to remove all candidates for Governor, except appellant, from the May 16, 2006 primary ballot."

Respondent has moved to dismiss the appeal as moot on the ground that the May 16, 2006, primary election is now over, and the particular relief that appellant seeks is no longer available. Appellant suggests that the court could still remove the candidates from the general ballot; however, that is not the relief requested in appellant's mandamus petition. Therefore, the appeal is moot and the motion to dismiss on that ground is granted.

In light of the foregoing action, appellant's renewed motion for expedited briefing and hearing is denied as moot.

Appeal dismissed.

/s/ David V. Brewer
David V. Brewer, Chief Judge

Sep. 20, 2006
Date

DESIGNATION OF PREVAILING PARTY AND AWARD OF COSTS

Prevailing party: Respondent

[X] Costs allowed, payable by: Appellant

APPELLATE JUDGMENT and
SUPPLEMENTAL JUDGMENT

MONEY AWARD

Judgment #1

Creditor(s):	Bill Bradbury, Secretary of State of the State of Oregon
Attorney:	Rolf Moan, 1162 Court NE #400, Salem, OR 97301
Debtor(s):	Gordon Leitch
Attorney:	James Leuenberger
Costs:	$ 224.00
TOTAL AMOUNT:	$ 224.00

Interest: Simple, 9% per annum, from the date of this appellate judgment

Appellate Judgment
Effective Date: January 16, 2007

COURT OF APPEALS
(seal)

IN THE CIRCUIT COURT
OF THE STATE OF OREGON
FOR THE COUNTY OF MARION

GORDON LEITCH, Relator-Plaintiff, vs. BILL BRADBURY, Respondent-Defendant.	Case No. 06C11178 [Alternative /s/ JLR] ~~PEREMPTORY~~ WRIT OF MANDAMUS (Filed Mar. 6, 2006) (Entered Mar. 7, 2006)

To: Bill Bradbury, Elections Division, Room 141, State Capitol, Salem, Oregon.

Facts

1

Gordon Leitch is a member of the Republican Party.

2

On December 23, 2005, Gordon Leitch delivered his fully executed declaration of candidacy for nomination for public office (Governor) to the Secretary of State's Elections Division, Room 141, State Capitol, Salem, Oregon. A true copy of the fully executed declaration of candidacy is marked "Exhibit 1," is attached hereto, and by this reference made a part hereof.

3

At the same time he delivered his fully executed declaration of candidacy for nomination for public office

(Governor) to the Secretary of State, Gordon Leitch delivered five (5), twenty dollar ($20.00) United States gold coins as payment in full of the filing fee for Governor. A photo copy of the five, twenty dollar United States gold coins is marked "Exhibit 2," is attached hereto, and by this reference made a part hereof.

4

Bill Bradbury is Secretary of State.

5

Pursuant to ORS 249.035, a declaration of candidacy for state office shall be filed with the Secretary of State.

6

Pursuant to ORS 249.002(10), "state office" includes Governor.

7

Pursuant to OAR 165-002-0025, the location for filing declarations of candidacy for state office and for paying filing fees for said office is the Elections Division, Room 141, State Capitol, Salem, Oregon.

8

Pursuant to ORS 249.056(1)(b) the filing fee for Governor is $100.

9

On December 23, 2005 the Secretary of State's Elections Division accepted both the declaration of candidacy and the filing fee provided to it by Gordon Leitch. A copy of the "December 24, 2005" receipt for Gordon Leitch's filing fee is marked "Exhibit 3," is attached hereto, and by this reference made a part hereof.

10

Shortly after receiving Gordon Leitch's declaration of candidacy and filing fee, the Secretary of State's Elections Division exercised its statutory duty to date and time stamp the declaration of candidacy. ORS 249.006.

11

Shortly after receiving Gordon Leitch's declaration of candidacy and filing fee, the Secretary of State's Elections Division exercised its statutory duty to register Gordon Leitch as a candidate for Governor. ORS 254.076.

12

On or about January 10, 2006, Bill Bradbury acting through his Elections Division Operations Manager, Brenda Bayes, illegally revoked Gordon Leitch's registration as candidate for Governor.

13

On or about January 10, 2006, Bill Bradbury, acting through his Elections Division Operations Manager, Brenda Bayes, notifed [sic] Gordon Leitch in writing that

Mr. Leitch had not delivered acceptable "legal tender" in payment of the required filing fee. A true copy of said letter is marked "Exhibit 4," is attached hereto, and by this reference is made a part hereof.

14

On or about January 16, 2006, Gordon Leitch demanded in writing that Bill Bradbury re-register Gordon Leitch as candidate for Governor because Gordon Leitch had, in fact and in law, tendered payment of $100.00 in legal tender to Bill Bradbury's Elections Division. A copy of Mr. Leitch's demand letter is marked "Exhibit 5," is attached hereto, and is made a part hereof.

15

Bill Bradbury maintains an active web site on which he publishes from time to time the current candidates for Governor. A true copy of that web site as it exists on February 1, 2006 is marked "Exhibit 6," is attached hereto, and is made a part hereof.

16

United States gold coins are legal tender. 31 USC §5103 reads:

> "United States coins and currency (including Federal reserve notes and circulating notes of Federal reserve banks and national banks) are legal tender for all debts, public charges, taxes, and dues. Foreign gold or silver coins are not legal tender for debts."

17

Even if United States gold coins are not legal tender, Bill Bradbury's objection to Gordon Leitch's tender of the five, twenty dollar coins was and is ineffective because his protest was not made at the time of presentment. ORS 81.020 reads:

> "**Objection to tender.** The person to whom a tender is made shall *at that time* specify any objection the person may have to the money, instrument or property or the person shall be deemed to have waived it; and if the objection is to the amount of money, the terms of the instrument or the amount or kind of property, the person must specify the amount, terms or kind which the person requires or be precluded from objecting afterwards."

(Emphasis added.)

18

Gordon Leitch having filed his declaration of candidacy and having paid the required filing fee, Bill Bradbury is statutorily required to register Gordon Leitch as a candidate for Governor (ORS 254.076) and to file, not later than the 61st day before the date of the primary election, with each county clerk a statement that Gordon Leitch is a candidate for Governor (ORS 254.085).

19

Time is of the essence. Pursuant to State Candidate's Manual: Major Political Party at page 7, the filing deadline for Governor is March 7, 2006. *See* OAR 165-010-0005(1)

specifying that State Candidate's Manual: Major Political Party contains the procedures and forms to be used by major party candidates *and* ORS 246.150 which authorizes the Secretary of State to adopt election rules.

Order

Bill Bradbury is hereby ordered and commanded to immediately re-register Gordon Leitch as a candidate for Governor and to file, not later than the 61st day before the date of the primary election, with each county clerk, a statement that Gordon Leitch is a candidate for Governor. [or show cause why not. /s/ JLR]

So ordered this [6th /s/ JLR] day of ~~February,~~ [March /s/ JLR] 2006.

/s/ Jamese Rhoades
Circuit Court Judge

Document prepared by: James E. Leuenberger, OSB 89154, Attorney for Gordon Leitch

EXHIBIT 1

FILING OF CANDIDACY FOR MAJOR POLITICAL PARTY

PLEASE TYPE OR LEGIBLY PRINT IN BLACK INK.

NOTE: This information is a matter of public record and may be published or reproduced.

☐ DEMOCRATIC PARTY REPUBLICAN PARTY ☒

NAME OF CANDIDATE
Gordon Leitch

NAME SHOULD APPEAR ON BALLOT AS FOLLOWS
Gordon Leitch

TELEPHONE (HOME)
(503) 554-9964

TELEPHONE (WORK)
(503) 296-6200

FAX
NA

EMAIL
NA

WEBSITE

☒ SECRETARY OF STATE OF OREGON

☒ FILING OF CANDIDACY BY DECLARATION, WITH THE REQUIRED FILING FEE (ORS 249.056).

FILING FOR OFFICE OF
Governor

DISTRICT, DEPARTMENT OR POSITION NUMBER

RESIDENCE ADDRESS (STREET/ROUTE, CITY, STATE, ZIP CODE)
885 S.W. Red Hills Dr.
Dundee, Ore. 97115

COUNTY OF RESIDENCE
Yamhill

MAILING ADDRESS WHERE ALL CORRESPONDENCE WILL BE SENT
885 S.W. Red Hills Dr.
Dundee, Ore. 97115

☐ COUNTY ELECTIONS OFFICIAL OF _____ COUNTY

FILING FEES

OFFICE	FILING OF CANDIDACY BY DECLARATION (ORS 249.056)	STATE VOTERS' PAMPHLET (ORS 251.095)
UNITED STATES PRESIDENT	n/a	$1000
UNITED STATES VICE PRESIDENT	n/a	$1000
UNITED STATES SENATOR	$150	$1000
UNITED STATE REPRESENTATIVE	$100	$1000
STATEWIDE OFFICES	$100	$1000
STATE SENATOR OR REPRESENTATIVE	$ 25	$ 300
COUNTY OFFICE	$ 50	$ 300

☐ Filing of candidacy by **PROSPECTIVE** petition, with the required proposed signature sheet signed by the

candidate (SEL 102) and statement one or more circulators will or will not be paid (SEL 300) (ORS 249.020).

☐ Filing of candidacy by **COMPLETED** petition, with the required signature sheets properly certified by the appropriate county elections officials (ORS 249.020, 249.064).

2004 FILING DATES
State Primary Election May 18, 2004

Filing For Candidacy:
First Day March 31, 2003

Filing For Candidacy:
Last Day March 9, 2004

Filing For State Voters' Pamphlet:
March 11, 2004

Deadline To Withdraw Candidacy:
March 12, 2004

FOR OFFICE USE ONLY

INITIALS
CB

CASH OR CHECK NUMBER
CASH

RECEIPT NUMBER
50642

CANDIDATE ID NUMBER
2269

OFFICE NUMBER
401

PRINCIPAL CAMPAIGN COMMITTEE
ID # 4956

EXHIBIT 1, pg. 2

REQUIRED INFORMATION

OCCUPATION (PRESENT EMPLOYMENT – PAID OR UNPAID)

Retired

OCCUPATIONAL BACKGROUND (PREVIOUS EMPLOYMENT – PAID OR UNPAID)

Eye Physician and Surgeon (Ophthalmologist) 1963-1994
U.S. Department of Commerce, Bureau of the Census Dec. 1999-Sept. 2000

EDUCATIONAL BACKGROUND (SCHOOLS ATTENDED, use attachment if needed)

Complete name of school – *no acronyms*	Last grade level completed	Diploma/ Degree/ Certificate (AA, BA, BS, MA, PhD, etc.)	Course of study (optional)
Ainsworth Grade School	8th	Gradn. Certif.	Elementary
Lincoln High School	12th	" "	High School
Whitman College	16th	BA	Math-Physics
Johns Hopkins Medical School	20th	MD	Medical

Other: Internship and graduate medical specialty study in ophthalmology Montreal General Hospital; 24th grade level; certificate of residency completion.

PRIOR GOVERNMENTAL EXPERIENCE (ELECTED OR APPOINTED)

Precinct Committeeman

NOTE: This information is a matter of public record and may be published or reproduced.

By signing this document, I hereby state:

THAT I accept the nomination for the office indicated above;

THAT I shall qualify for said office if elected;

THAT, if not nominated, I shall not accept the nomination or endorsement of any political party other than the one named above;

THAT I have been a member of the indicated major political party, subject to the exceptions stated in ORS 249.046, for at least 180 days before the deadline for filing a nominating petition or declaration of candidacy (ORS 249.031); and

THAT all information provided by me on this form, including my occupation, educational and occupational background, and prior governmental experience, is true to the best of my knowledge.

/s/ Gordon Leitch — Candidate's signature

23 December 2005 — Date signed

WARNING: Supplying false information on this form may result in conviction of a felony with a fine of up to $100,000 and/or prison for up to five years. (ORS 260.715).

No person shall file a nominating petition or declaration of candidacy for more than one lucrative office before the date of the primary election, unless the person first files a written withdrawal with the officer who accepted the filing (ORS 249.013(2)).

EXHIBIT 2

1849, March 3

CHAP. CIX--An Act to authorize the Coinage of Gold Dollars and Double Eagles

1 DOLLAR GOLD

20 DOLLAR GOLD
(DOUBLE EAGLE)

*1849 GOLD DOLLAR IMAGES AND 20 DOLLAR DOUBLE EAGLE IMAGES COURTESY NATIONAL NUMISMATIC COLLECTION OF THE SMITHSONIAN INSTITUTION, RICHARD DOTY, PH.D., CURATOR AND PHOTOGRAPHER.

EXHIBIT 3

ARM 50642-001

RECEIPT/INVOICE

State of Oregon
Elections Division

Date 12/24/05 Customer # _____

Name /s/ Gordon Leitch

Company/PAC _____

Address _____

City, State, Zip Code _____

Phone # _____ Fax # _____

Daily Transaction

Blue Book _____ Fax _____ Copies _____ Penalty _____

Other _____ Description _____

C&E Report

Original _____ Amendment _____ Election 2006

1st pre ___ 2ndpre ___ Post ___ Suppt. ___ Other ___

Candidate Filing/Voters' Pamphlet Statement/Argument

Office No. _____ Title Governor

Party-Democrat ___ Republican ___ Other _____

One Column _____ Two Columns _____

Fee _____ Petition _____

Portraits-One _____ Two _____ Not Filed _____

Amount Received $ _____ Amount Due $ 0

Cash 100.00 Check No. _____

Double Eagles gold coin(s) (5) By /s/ Candy Broucak

Please Remit Amount Due Within Ten Days Of Receipt To:

Elections Division, Room 141, State Capitol Building, Salem, OR 97310-0722

EXHIBIT 4

(SEAL)

OFFICE OF THE
SECRETARY OF STATE

BILL BRADBURY
SECRETARY OF STATE

ELECTIONS DIVISION

JOHN LINDBACK
DIRECTOR

141 STATE CAPITOL
SALEM, OREGON 97310-0722

ELECTIONS – (503) 986-1518

January 10, 2006

Gordon Leitch
885 SW Red Hills Drive
Dundee OR 97115

Dear Mr. Leitch,

We are in receipt of your filing for the office of Governor for the May 16, 2006 Primary election received in this office on December 23, 2005.

In receipt of this filing you have tendered five gold coins as payment of the $100 filing fee required to file for the office of Governor. Our bank has advised us that the coins you have submitted are not acceptable as "legal tender" therefore you have not adequately filed for the office of Governor until such time as legal tender has been provided. Please contact us as soon as possible to make

arrangements with our office so that we may return the five gold coins to you. Thank you.

Sincerely,

/s/ Brenda Bayes
Brenda Bayes
Operations Manager

EXHIBIT 5

GREGORY W. BYRNE
ATTORNEY AT LAW
SUITE 220
5550 SW MACADAM AVENUE
PORTLAND, OREGON 97239
EMAIL: GWB@ATTGLOBAL.NET
WWW.GBYRNELAW.COM

TELEPHONE: (503) 323-9100 FAX: (503) 323-9188

January 16, 2006

Ms. Brenda Bayes
Elections Division
Secretary of State
141 State Capitol
Salem, OR 97310-0722

Re: Gordon Leitch

Dear Ms. Bayes:

I represent Gordon Leitch, candidate for the office of governor in the May 2006 primary election. Dr. Leitch has forward [sic] to me a copy of your January 10, 2006 letter in which you informed him that the United States gold coins he tendered for his filing fee have been rejected by your bank. Please be advised that federal law (31 USC

§5103) makes United States coins "legal tender for all debts, public charges, taxes, and dues." If you have some legal authority to the contrary I would appreciate hearing of it. Otherwise, I trust you will inform the bank that it is incorrect.

Unless I hear otherwise from you I will assume that Dr. Leitch has satisfied all the requirements of filing for the office of governor and trust his name will appear on the May 2006 ballot.

Sincerely,

/s/ Gregory W. Byrne
Gregory W. Byrne

cc: Dr. Gordon Leitch

EXHIBIT 6

(SEAL) **May 16, 2006 Primary Election**
Candidate List
Filed by Office

Return to the Open Office Summary.

GOVERNOR
David W Beem (REPUBLICAN)
1919 FAIRGROUNDS RD SE #19
SALEM, OR 97301
(503)365-1945(H), (971)240-2680(W)
Date filed: Jun 17, 2005 by Fee
Qualified For Office: Yes

Fax: No fax number specified.
E-Mail: davidwbeem@email.com
Web-Site:

GOVERNOR
William E. Spidal (REPUBLICAN)
40521 ANDERSON RD
NEHALEM, OR 97131
(503)939-1540(H)
Date filed: Aug 03, 2005 by Fee
Qualified For Office: Yes

Fax: No fax number specified.
E-Mail: No E-Mail address specified.
Web-Site: No Web-Site address specified.

GOVERNOR
Kevin Mannix (REPUBLICAN)
2007 STATE ST
SALEM, OR 97301
(503)371-8145(H), (503)364-1913(W)
Date filed: Nov 07, 2005 by Fee
Qualified For Office: Yes

Fax: (503)362-0513
E-Mail: maureen@mannixfororegon.org
Web-Site: No Web-Site address specified.

GOVERNOR
Ted Kulongoski (DEMOCRAT)
PO BOX 399
PORTLAND, OR 97207
(503)546-0416(W)
Date filed: Nov 21, 2005 by Fee
Qualified For Office: Yes

Fax: No fax number specified.
E-Mail: info@tedforgov.com
Web-Site: www.tedforgov.com

GOVERNOR
Pete Sorenson (DEMOCRAT)
ELECT SORENSON
804 PEARL ST
EUGENE, OR 97401
(541)485-6726(H), (541)682-3721(W)
Date filed: Dec 12, 2005 by Fee
Qualified For Office: Yes

Fax: (541)302-5775
E-Mail: info@petesorenson.com
Web-Site: www.petesorenson.com

GOVERNOR
Jason A. Atkinson (REPUBLICAN)
PO BOX 1965
WILSONVILLE, OR 97070
(541)664-9878(H), (541)955-0911(W)
Date filed: Jan 27, 2006 by Fee
Qualified For Office: Pending

Fax: No fax number specified.
E-Mail: info@atkinsonforgovernor.com
Web-Site: www.atkinsonforgovernor.com

IN THE SUPREME COURT OF THE
STATE OF OREGON

GORDON LEITCH, Relator-Appellant, Petitioner on Review, v. BILL BRADBURY, Defendant-Respondent, Respondent on Review.	Marion County Circuit Court No. 06C11178 SC S54072 CA A131789 **ORDER DENYING REVIEW**

Upon consideration by the court.

The court has considered the petition for review and orders that it be denied.

Dated this 21st day of November 2006.

/s/ PAUL J. DE MUNIZ
PAUL J. DE MUNIZ
CHIEF JUSTICE

c: James E. Leuenberger
Rolf C. Moan

IN THE SUPREME COURT
OF THE STATE OF OREGON

GORDON LEITCH,
Relator-Appellant,
Petitioner on Review,

v.

BILL BRADBURY,
Defendant-Respondent,
Respondent on Review.

Court of Appeals
A131789

S054072

ORDER DENYING PETITION FOR RECONSIDERATION

Upon consideration by the court.

The court has considered the petition for reconsideration and orders that it be denied.

December 19, 2006
DATE

/s/ Paul J. De Muniz
CHIEF JUSTICE

c: James E Leuenberger
Rolf Moan

jk

The Founders' Constitution

Edited by
Philip B. Kurland
and
Ralph Lerner

VOLUME THREE
Article 1, Section 8, Clause 5,
through Article 2, Section 1

Originally published: Chicago:
University of Chicago Press, 1987.

* * *

ARTICLE 1, SECTION 10, CLAUSE 1, NO. 3

3

RECORDS OF THE FEDERAL CONVENTION

[*2:439; Madison, 28 Aug.*]

Art: XII being taken up.

Mr. Wilson & Mr. Sherman moved to insert after the words "coin money" the words "nor emit bills of credit, nor make any thing but gold & silver coin a tender in payment of debts" making these prohibitions absolute, instead of making the measures allowable (as in the XIII art:) *with the consent of the Legislature of the U.S.*

Mr. Ghorum thought the purpose would be as well secured by the provision of art: XIII which makes the consent of the Genl. Legislature necessary, and that in that mode, no opposition would be excited; whereas an

absolute prohibition of paper money would rouse the most desperate opposition from its partizans–

Mr. Sherman thought this a favorable crisis for crushing paper money. If the consent of the Legislature could authorize emissions of it, the friends of paper money would make every exertion to get into the Legislature in order to license it.

The question being divided; on the 1st part – "nor emit bills of credit"

N.H. ay. Mas. ay. Ct. ay. Pa. ay – Del. ay. Md. divd. Va. no. N– C– ay– S– C. ay. Geo. ay. [Ayes – 8; noes – 1; divided – 1.]

The remaining part of Mr. Wilson's & Sherman's motion, was agreed to nem: con:

Mr. King moved to add, in the words used in the Ordinance of Congs establishing new States, a prohibition on the States to interfere in private contracts.

Mr. Govr. Morris. This would be going too far. There are a thousand laws relating to bringing actions – limitations of actions & which affect contracts – The Judicial power of the U– S– will be a protection in cases within their jurisdiction; and within the State itself a majority must rule, whatever may be the mischief done among themselves.

Mr. Sherman. Why then prohibit bills of credit?

Mr. Wilson was in favor of Mr. King's motion.

Mr. Madison admitted that inconveniences might arise from such a prohibition but thought on the whole it would be overbalanced by the utility of it. He conceived

however that a negative on the State laws could alone secure the effect. Evasions might and would be devised by the ingenuity of the Legislatures –

Col: Mason. This is carrying the restraint too far. Cases will happen that can not be foreseen, where some kind of interference will be proper, & essential – He mentioned the case of limiting the period for bringing actions on open account – that of bonds after a certain lapse of time, – asking whether it was proper to tie the hands of the States from making provision in such cases?

Mr. Wilson. The answer to these objections is that *retrospective* interferences only are to be prohibited.

Mr. Madison. Is not that already done by the prohibition of ex post facto laws, which will oblige the Judges to declare such interferences null & void.

Mr. Rutlidge moved instead of Mr. King's Motion to insert – "nor pass bills of attainder nor retrospective laws" on which motion

N.H. ay – Ct. no. N.J. ay. Pa. ay. Del. ay. Md. no. Virga. no. N– C. ay. S.C. ay. Geo. ay. [Ayes – 7; noes – 3.]

[*2:448; Madison, 29 Aug.*]

Mr. Dickenson mentioned to the House that on examining Blackstone's Commentaries, he found that the terms "ex post facto" related to criminal cases only; that they would not consequently restrain the States from retrospective laws in civil cases, and that some further provision for this purpose would be requisite.

[*2:619; Madison, 14 Sept.*]

The first clause of Art. 1. sect. 10 – was altered so as to read – "No State shall enter into any Treaty alliance or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make any thing but gold & silver coin a tender in payment of debts; pass any bill of attainder, ex post law, or law impairing the obligation of contracts, or grant any title of nobility."

Mr. Gerry entered into observations inculcating the importance of public faith, and the propriety of the restraint put on the States from impairing the obligation of contracts – Alledging that Congress ought to be laid under the like prohibitions. he made a motion to that effect. He was not 2ded.

[*2:640; Mason, 15 Sept.*]

Both the general legislature and the State legislature are expressly prohibited making *ex post facto* laws; though there never was nor can be a legislature but must and will make such laws, when necessity and the public safety require them; which will hereafter be a breach of all the constitutions in the Union, and afford precedents for other innovations.

4

LUTHER MARTIN, GENUINE INFORMATION
1788

Storing 2.4.75-78

By the tenth section every State is *prohibited* from *emitting bills of credit* – As it was reported by the committee of detail, the States were *only* prohibited from emitting them *without the consent of Congress;* but the convention was so

smitten with the *paper money dread*, that they insisted the prohibition should be *absolute*. It was my opinion, Sir, that the States ought not to be *totally deprived of the right to emit bills of credit*, and that as we had *not given* an *authority* to the *general government* for that purpose, it was the *more necessary* to *retain* it in the *States* – I considered that *this State*, and *some others*, have *formerly received great benefit* from paper emissions, and that if public and private credit should once more be restored, such emissions may *hereafter be equally advantageous*; and further, that it is impossible to foresee that events may not take place which shall render paper money of *absolute necessity;* and it was my opinion, if this power was not to be exercised by a State without the permission of the general government, it ought to be satisfactory even to those who were the *most haunted* by the apprehensions of paper money; I therefore, thought it my duty to vote against this part of the system.

The same section also, puts it out of the power of the States, to make any thing but gold and silver coin a tender in payment of debts, or to pass any law impairing the obligation of contracts.

I considered, Sir, that there might be times of such *great public calamities* and *distress*, and of such *extreme scarcity* of *specie* as should render it the *duty* of a government, for the *preservation* of even the *most valuable part* of its citizens in some measure to interfere in their favour, by passing laws *totally* or *partially stopping* the courts of justice, or authorising the debtor to pay by *instalments*, or by delivering up his property to his creditors at a *reasonable* and *honest* valuation. The times have been such as to render regulations of this kind necessary in most, or all of the States, to prevent the *wealthy creditor* and the *monied*

man from *totally* destroying the *poor* though even *industrious* debtor – *Such times* may *again* arrive. I therefore, voted against depriving the States of this power, a power which I am decided they ought to possess, but which I admit ought only to be exercised on very important and urgent occasions. I apprehend, Sir, the principal cause of complaint among the people at large is, the public and private debt with which they are oppressed, and which, in the present scarcity of cash, threatens them with destruction, unless they can obtain so much indulgence in point of time that by industry and frugality they may extricate themselves.

This *government proposed*, I apprehend, so *far from removing* will greatly *encrease* those complaints, since grasping in its all powerful hand the citizens of the respective States, it will by the imposition of the variety of *taxes, imposts, stamps, excises*, and *other duties, squeeze* from them the little money they acquire, the hard earnings of their industry, as you would squeeze the juice from an orange, till not a drop more can be extracted, and then let *loose* upon them their *private creditors*, to whose *mercy* it *consigns* them, by *whom* their property is to be *seized upon* and *sold* in this *scarcity* of *specie* at a *sheriff's sale*, where nothing but *ready cash* can be received, for a *tenth part* of its *value*, and *themselves* and their *families* to be consigned to *indigence* and *distress*, without *their governments* having a *power to give them a moment's indulgence*, however *necessary* it might be, and however *desirous* to grant them aid.

5

JAMES MADISON, FEDERALIST, NO. 44, 299-302
25 Jan. 1788

The prohibition against treaties, alliances and confederations, makes a part of the existing articles of Union; and for reasons which need no explanation, is copied into the new Constitution. The prohibition of letters of marque is another part of the old system, but is somewhat extended in the new. According to the former, letters of marque could be granted by the States after a declaration of war. According to the latter, these licenses must be obtained as well during war as previous to its declaration, from the government of the United States. This alteration is fully justified by the advantage of uniformity in all points which relate to foreign powers; and of immediate responsibility to the nation in all those, for whose conduct the nation itself is to be responsible.

The right of coining money, which is here taken from the States, was left in their hands by the confederation as a concurrent right with that of Congress, under an exception in favor of the exclusive right of Congress to regulate the alloy and value. In this instance also the new provision is an improvement on the old. Whilst the alloy and value depended on the general authority, a right of coinage in the particular States could have no other effect than to multiply expensive mints, and diversify the forms and weights of the circulating pieces. The latter inconveniency defeats one purpose for which the power was originally submitted to the foederal head. And as far as the former might prevent an inconvenient remittance of gold and silver to the central mint for recoinage, the end can be as

well attained, by local mints established under the general authority.

The extension of the prohibition to bills of credit must give pleasure to every citizen in proportion to his love of justice, and his knowledge of the true springs of public prosperity. The loss which America has sustained since the peace, from the pestilent effects of paper money, on the necessary confidence between man and man; on the necessary confidence in the public councils; on the industry and morals of the people, and on the character of Republican Government, constitutes an enormous debt against the States chargeable with this unadvised measure, which must long remain unsatisfied; or rather an accumulation of guilt, which can be expiated no otherwise than by a voluntary sacrifice on the altar of justice, of the power which has been the instrument of it. In addition to these persuasive considerations, it may be observed that the same reasons which shew the necessity of denying to the States the power of regulating coin, prove with equal force that they ought not to be at liberty to substitute a paper medium in the place of coin. Had every State a right to regulate the value of its coin, there might be as many different currencies as States; and thus the intercourse among them would be impeded; retrospective alterations in its value might made, and thus the citizens of other States be injured; and animosities be kindled among the States themselves. The subjects of foreign powers might suffer from the same cause, and hence the Union be discredited and embroiled by the indiscretion of a single member. No one of these mischiefs is less incident to a power in the States to emit paper money than to coin gold or silver. The power to make any thing but gold and silver a tender in payment of debts, is withdrawn from the

States, on the same principle with that of striking of paper currency.

Bills of attainder, ex post facto laws, and laws impairing the obligation of contracts, are contrary to the first principles of the social compact, and to every principle of sound legislation. The two former are expressly prohibited by the declarations prefixed to some of the State Constitutions, and all of them are prohibited by the spirit and scope of these fundamental charters. Our own experience has taught us nevertheless, that additional fences against these dangers out not to be omitted. Very properly therefore have the Convention added this constitutional bulwark in favor of personal security and private rights; and I am much deceived if they have not in so doing as faithfully consulted the genuine sentiments, as the undoubted interests of their constituents. The sober people of America are weary of the fluctuating policy which has directed the public councils. They have seen with regret and with indignation, that sudden changes and legislative interferences in cases affecting personal rights, become jobs in the hands of enterprizing and influential speculators; and snares to the more industrious and less informed part of the community. They have seen, too, that legislative interference, is but the first link of a long chain of repetitions; every subsequent interference being naturally produced by the effects of the preceding. They very rightly infer, therefore, that some thorough reform is wanting which will banish speculations on public measures, inspire a general prudence and industry, and give a regular course to the business of society. The prohibition with respect to titles of nobility, is copied from the articles of confederation, and needs no comment.

6

CHARLES PINCKNEY, SOUTH CAROLINA
RATIFYING CONVENTION
20 May 1788

Elliot 4:333-36

This section I consider as the soul of the Constitution, – as containing, in a few words, those restraints upon the states, which, while they keep them from interfering with the powers of the Union, will leave them always in a situation to comply with their federal duties – will teach them to cultivate those principles of public honor and private honesty which are the sure road to national character and happiness.

The only parts of this section that are objected to are those which relate to the emission of paper money, and its consequences, tender-laws, and the impairing the obligation of contracts.

The other parts are supposed as exclusively belonging to, and such as ought to be vested in, the Union.

If we consider the situation of the United States as they are at present, either individually or as the members of a general confederacy, we shall find it extremely improper they should ever be intrusted with the power of emitting money, or interfering in private contracts; or, by means of tender-laws, impairing the obligation of contracts.

I apprehend these general reasonings will be found true with respect to paper money: That experience has shown that, in every state where it has been practised

since the revolution, it always carries the gold and silver out of the country, and impoverishes it – that, while it remains, all the foreign merchants, trading in America, must suffer and lose by it; therefore, that it must ever be a discouragement to commerce – that every medium of trade should have an intrinsic value, which paper money has not; gold and silver are therefore the fittest for this medium, as they are an equivalent, which paper can never be – that debtors in the assembles will, whenever they can, make paper money with fraudulent views – that in those states where the credit of the paper money has been best supported, the bills have never kept to their nominal value in circulation, but have constantly depreciated to a certain degree.

I consider it as a granted position that, while the productions of a state are useful to other countries, and can find a ready sale at foreign markets, there can be no doubt of their always being able to command a sufficient sum in specie to answer as a medium for the purposes of carrying on this commerce; provided there is no paper money, or other means of conducting it. This, I think, will be the case even in instances where the balance of trade is against a state; but where the balance is in favor, or where there is nearly as much exported as imported, there can be no doubt that the products will be the means of always introducing a sufficient quantity of specie.

If we were to be governed by partial views, and each

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IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR THE COUNTY OF MARION

GORDON LEITCH, Relator, vs. BILL BRADBURY, Respondent.	Case No. 06C 11178 RELATOR'S OBJECTION TO AWARD OF ATTORNEY FEES AND COSTS TO RESPONDENT (Filed Apr. 13, 2006) (Entered Apr. 14, 2006)

Comes now, relator, by and through counsel, who objects to any award of attorney fees and costs to respondent that is not stated in terms of specific gold or silver coins the court will require relator to pay to the State of Oregon to satisfy his debt to the State of Oregon for attorney fees and costs.

Points and Authorities

United States Constitution Article I, § 10, Clause 1 says that no state can make any thing other than gold or silver coins tender of payment of debts. This court cannot make federal reserve notes, drafts drawn on commercial banks, or notes of the United States tender of payment of debts.

DATED: April 12, 2006.

JAMES E. LEUENBERGER PC

/s/ James E. Leuenberger
James E. Leuenberger,
OSB 89154
Attorney for relator

Certificate of Delivery

I certify that I ~~mailed~~ [hand delivered] a true copy of this document to:

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